

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ONONDAGA**

-----X
**JOHN DOE 1, As Proposed Administrator of the
Estate of JOHN DOE 2, Deceased,**

Plaintiffs,
-against -

**ROMAN CATHOLIC DIOCESE OF SYRACUSE
and ST. MARY OF THE LAKE,**

Defendants.

-----X
To the above-named defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York): and in case your failure to appear or answer, judgement will be taken for the relief demanded herein.

**A COPY OF THIS SUMMONS WAS FILED WITH THE CLERK OF THE COURT,
ONONDAGA COUNTY ON _____ IN COMPLIANCE WITH CPLR §§305(a) AND
306(a).**

Dated: New York, New York
August 14, 2019

MERSON LAW, PLLC

By: _____



Jordan K. Merson
Attorneys for Plaintiff
150 East 58th Street 34th Floor
New York, New York 10155
(212) 603-9100

TO:

ROMAN CATHOLIC DIOCESE OF SYRACUSE

240 E. Onondaga Street

Syracuse, New York 13202

ST. MARY OF THE LAKE

81 Jordan St.

Skaneateles, NY 13152

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ONONDAGA****Index No.: _____/19**

-----**X**
**JOHN DOE 1, As Proposed Administrator of the Estate
of JOHN DOE 2, Deceased,**

Plaintiffs,

-against -

**VERIFIED
COMPLAINT**

**ROMAN CATHOLIC DIOCESE OF SYRACUSE and
ST. MARY OF THE LAKE,**

Defendants.

-----**X**

Plaintiff,¹ above named, complaining of the defendants, by **MERSON LAW, PLLC.**, respectfully allege(s):

NATURE OF THE CLAIM

1. This is a case of a sexual predator, Father Thomas Neary (“Neary”), being permitted to sexually abuse young children at church by the Roman Catholic Diocese of Syracuse (the “Diocese”).
2. Neary was a priest at St. Mary of the Lake in Skaneateles (“St. Mary”), New York which was part of the Diocese. Father Thomas Neary was known among the community and the children of the church as a sexual predator.
3. Despite the Diocese’s and St. Mary’s knowledge that Neary sexually abused children and/or had the propensity to sexually abuse children, the Diocese and St. Mary allowed Neary unfettered access to children.

¹ Plaintiff uses a pseudonym because he is a victim of a sex crime pursuant to N.Y. Civ. Rights § 50-b and other statutory and common law principles.

4. In 1961, while under the scope of employment with the Diocese and while acting on behalf of the Diocese, Neary would forcefully rape, sodomize and otherwise sexually abuse John Doe 2, then twelve years old, in the basement of St. Mary of the Lake Church.
5. Plaintiffs brings this lawsuit to recover for the emotional and physical suffering Mr. Doe 2 endured because of the negligence of the Roman Catholic Diocese of Syracuse and St. Mary of the Lake in Skaneateles and to make sure no other child is forced to suffer the abuse and physical and mental trauma Mr. Doe 2 felt.

PARTIES

6. At all times herein mentioned defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE** was a not for profit corporation incorporated in the State of New York and by virtue of the laws of the State of New York.
7. At all times herein mentioned, defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE** was located at 240 E. Onondaga Street, Syracuse, New York 13202.
8. At all times herein mentioned, Neary was a priest operating under the direction and control of defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE**, and its agents, servants and/or employees.
9. At all times herein mentioned, Neary was an agent, servant and/or employee of defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE**.
10. At all times herein mentioned defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE** was a not for profit corporation incorporated in the State of New York and by virtue of the laws of the State of New York.
11. At all times herein mentioned, defendant **ST. MARY OF THE LAKE** was located at 81 Jordan St., Skaneateles, NY 13152.

12. At all times herein mentioned, Neary was a priest operating under the direction and control of defendant **ST. MARY OF THE LAKE**, and its agents, servants and/or employees.
13. At all times herein mentioned, Neary was an agent, servant and/or employee of defendant **ST. MARY OF THE LAKE**.
14. At all times herein mentioned, Defendants **ROMAN CATHOLIC DIOCESE OF SYRACUSE** and **ST. MARY OF THE LAKE**, were agents, servants, employees and/or alter egos of each other.

FACTS OF THE CASE

15. Defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE**'s and **ST. MARY OF THE LAKE**'s negligence and recklessness caused, allowed, encouraged and/or permitted Neary have access to children, including on Diocese premises, despite its knowledge that Neary sexually abused children and/or had the propensity to do so, and therefore are responsible for the injuries that Plaintiff incurred because but for Defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE**'s and **ST. MARY OF THE LAKE**'s negligence, Plaintiff would not have suffered the mental and physical anguish inflicted by Father Neary. Defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE**'s and **ST. MARY OF THE LAKE**'s gross negligence, reckless, wanton, and/or willful conduct warrants punitive liability.
16. Neary sexually assaulted Mr. Doe 2 and many other young male patrons and children of at St. Mary of the Lake Church in Skaneateles, New York. Nonetheless defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE** and **ST. MARY OF THE LAKE** failed to remove Neary from his position as a priest or to take any steps to keep the dangerous

predator away from children. In fact, the Diocese continued to allow, encourage and/or permit Neary to have unfettered access to children.

17. Neary would lock Mr. Doe 2 in the basement of St. Mary of the Lake Church and forcefully rape, sodomize and otherwise sexually abuse him.
18. Mr. Doe 2 would scream and try to fight off the abuse by Neary to no avail.
19. Neary manipulated Mr. Doe 2 and other boys not to disclose his predatory behavior by using his position of authority as a priest as provided by the Diocese.
20. As a result of the actions of Father Neary, Mr. Doe 2 felt ashamed and uncomfortable and was unable to talk about the abuse he suffered for the remainder of his life. Mr. Doe 2 had endured severe emotional distress due to the Diocese's negligence.
21. As such, Mr. Doe 2 suffered catastrophic and lifelong injuries as a result of defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE's** and **ST. MARY OF THE LAKE's** negligence in failing to protect the children of its parishes in locis parentis and of its community sage from Neary, despite the Diocese having knowledge that Neary sexually abused children and/or had the propensity to sexually abuse children, and/or allowing Neary to continue to have his role and position of authority and power, and the Diocese failed to adequately supervise Neary.

AS AND FOR A FIRST CAUSE OF ACTION FOR NEGLIGENCE

AS FOR THE ROMAN CATHOLIC DIOCESE OF SYRACUSE

22. Plaintiffs repeat, reiterate and reallege each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 21. inclusive, with the same force and effect as if hereinafter set forth at length.

23. At all times mentioned herein, defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE** owed a duty of care to keep the children of its parishes safe, including plaintiff, from sexual abuse by its clergymen under its supervision and control that ultimately befell the Plaintiff, including but not limited to *in locis parentis*.
24. At all times mentioned herein, defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE** and/or its agents, servants and/or employees breached the above-stated duty in a negligent, reckless, willful and wanton manner, and caused Plaintiff to be sexually assaulted repeatedly.
25. As a result of the negligence of defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE** and/or its agents, servants and/or employees, plaintiff was caused serious personal injuries, emotional distress, mental pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.
26. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendant in such sums as a jury would find fair, just and adequate.
27. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendant in such sums as a jury would find fair, just and adequate.
28. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
29. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR A SECOND CAUSE OF ACTION FOR NEGLIGENCE

AS FOR ST. MARY OF THE LAKE

30. Plaintiffs repeat, reiterate and reallege each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 29. inclusive, with the same force and effect as if hereinafter set forth at length.
31. At all times mentioned herein, defendant **ST. MARY OF THE LAKE** owed a duty of care to keep the children of its parishes safe, including plaintiff, from sexual abuse by its clergymen under its supervision and control that ultimately befell the Plaintiff, including but not limited to *in locis parentis*.
32. At all times mentioned herein, defendant **ST. MARY OF THE LAKE** and/or its agents, servants and/or employees breached the above-stated duty in a negligent, reckless, willful and wanton manner, and caused Plaintiff to be sexually assaulted repeatedly.
33. As a result of the negligence of defendant **ST. MARY OF THE LAKE** and/or its agents, servants and/or employees, plaintiff was caused serious personal injuries, emotional distress, mental pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.
34. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendant in such sums as a jury would find fair, just and adequate.
35. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendant in such sums as a jury would find fair, just and adequate.
36. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
37. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR A THIRD CAUSE OF ACTION FOR NEGLIGENT HIRING,
RETENTION AND SUPERVISION

AS FOR THE ROMAN CATHOLIC DIOCESE OF SYRACUSE

38. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 37., inclusive, with the same force and effect as if hereinafter set forth at length.
39. Defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE**, had a duty to supervise and prevent known risks of harm to young male patrons and children of its parishes by its clergymen.
40. Defendant was negligent in hiring, retaining and supervising their personnel, such as Father Neary, who were careless, unskillful, negligent, reckless and acted in a willful and wanton manner in not possessing the requisite knowledge and skill of priests and church officials who should have properly been supervising the priests to ensure the safety of the children of the parishes.
41. Defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE** knew or should have known that Father Neary sexually abused and/or had the propensity to sexually abuse children and did nothing to stop it.
42. As a result of such negligent hiring, supervising and retention, Plaintiff was caused to suffer serious personal injuries, emotional distress, conscious pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.
43. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendant in such sums as a jury would find fair, just and adequate.
44. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendant in such sums as a jury would find fair, just and adequate.

45. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
46. This action falls within exceptions to Article 16 of the C.P.L.R.

**AS AND FOR A FOURTH CAUSE OF ACTION FOR NEGLIGENT HIRING,
RETENTION AND SUPERVISION**

AS FOR ST. MARY OF THE LAKE

47. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 46., inclusive, with the same force and effect as if hereinafter set forth at length.
48. Defendant **ST. MARY OF THE LAKE**, had a duty to supervise and prevent known risks of harm to young male patrons and children of its parishes by its clergymen.
49. Defendant was negligent in hiring, retaining and supervising their personnel, such as Father Neary, who were careless, unskillful, negligent, reckless and acted in a willful and wanton manner in not possessing the requisite knowledge and skill of priests and church officials who should have properly been supervising the priests to ensure the safety of the children of the parishes.
50. Defendant **ST. MARY OF THE LAKE** knew or should have known that Father Neary sexually abused and/or had the propensity to sexually abuse children and did nothing to stop it.
51. As a result of such negligent hiring, supervising and retention, Plaintiff was caused to suffer serious personal injuries, emotional distress, conscious pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.

52. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendant in such sums as a jury would find fair, just and adequate.
53. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendant in such sums as a jury would find fair, just and adequate.
54. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
55. This action falls within exceptions to Article 16 of the C.P.L.R.

**AS AND FOR THE FIFTH CAUSE OF ACTION FOR NEGLIGENT INFILCTION OF
EMOTIONAL DISTRESS**

AS FOR THE ROMAN CATHOLIC DIOCESE OF SYRACUSE

56. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 55., inclusive, with the same force and effect as if herein set forth at length.
57. Defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE** and their agents, servants and/or employees, knew or reasonably should have known that the failure to properly advise, supervise and hire Father Neary, the priest who sexually abused Plaintiff, would and did proximately result in physical and emotional distress to Plaintiff.
58. Defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE** and their agents, servants and/or employees knew or reasonably should have known that the sexual abuse and other improper conduct would and did proximately result in physical and emotional distress to Plaintiff.
59. Defendant has the power, ability, authority and duty to intervene with and/or stop the improper conduct that resulted in Plaintiff being sexually abused by Father Neary.

60. Despite said knowledge, power and duty, defendant negligently failed to act so as to stop, prevent, and prohibit the improper conduct that resulted Father Neary sexually abusing Plaintiff.
61. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendant in such sums as a jury would find fair, just and adequate.
62. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendant in such sums as a jury would find fair, just and adequate.
63. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
64. This action falls within exceptions to Article 16 of the C.P.L.R.

**AS AND FOR THE SIXTH CAUSE OF ACTION FOR NEGLIGENT INFILCTION OF
EMOTIONAL DISTRESS**

AS FOR ST. MARY OF THE LAKE

65. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 64., inclusive, with the same force and effect as if herein set forth at length.
66. Defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE** and their agents, servants and/or employees, knew or reasonably should have known that the failure to properly advise, supervise and hire Father Neary, the priest who sexually abused Plaintiff, would and did proximately result in physical and emotional distress to Plaintiff.
67. Defendant **ROMAN CATHOLIC DIOCESE OF SYRACUSE** and their agents, servants and/or employees knew or reasonably should have known that the sexual abuse and other improper conduct would and did proximately result in physical and emotional distress to Plaintiff.

68. Defendant has the power, ability, authority and duty to intervene with and/or stop the improper conduct that resulted in Plaintiff being sexually abused by Father Neary.
69. Despite said knowledge, power and duty, defendant negligently failed to act so as to stop, prevent, and prohibit the improper conduct that resulted Father Neary sexually abusing Plaintiff.
70. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendant in such sums as a jury would find fair, just and adequate.
71. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendant in such sums as a jury would find fair, just and adequate.
72. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
73. This action falls within exceptions to Article 16 of the C.P.L.R.

WHEREFORE, plaintiff demands judgement against defendant in such sum as a jury would find fair, adequate and just.

Dated: New York, New York
August 14, 2019

MERSON LAW, PLLC

By: Jordan Merson
Jordan K. Merson
Attorney for Plaintiffs
150 East 58th Street 34th Floor
New York, New York 10155
(212) 603-9100

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ONONDAGA**

Index No.: _____ /19

**JOHN DOE 1, As Proposed Administrator of the Estate
of JOHN DOE 2, Deceased,**

Plaintiffs,

**ATTORNEY
VERIFICATION**

-against -

**ROMAN CATHOLIC DIOCESE OF SYRACUSE and
ST. MARY OF THE LAKE,**

Defendants.

--X

JORDAN K. MERSON, an attorney duly admitted to practice in the Courts of New York State, and a member of the firm MERSON LAW, PLLC., attorneys for the plaintiffs in the within action, hereby affirms under penalty of perjury:

That he has read the within complaint and knows the contents thereof, and that the same is true to his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters he believes it to be true.

That the sources of his information and knowledge are investigations and records in the file.

That the reason this verification is made by affirmant and not by the plaintiff is that the plaintiff is not within the County where the attorney has his office.

Dated: New York, New York
August 14, 2019

Jordan Merson
JORDAN K. MERSON

Index No.

Year 2019

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ONONDAGA

JOHN DOE 1, As Proposed Administrator of the Estate of JOHN DOE
2, Deceased,

Plaintiff(s),

- against -

ROMAN CATHOLIC DIOCESE OF SYRACUSE
and ST. MARY OF THE LAKE,

Defendant(s),

SUMMONS AND VERIFIED COMPLAINT

Merson Law, PLLC.

Attorneys for Plaintiff(s)

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To: All Parties
